IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.11.2007

Coram

THE HONOURABLE Mr. JUSTICE P.JYOTHIMANI

Writ Petition No.36007 of 2007

and M.P.No.1 of 2007

C.V.Sankar .... Petitioner

-Vs.-

The Joint Secretary
Central Board of Secondary Education
No.1630-A J-Block, Anna Nagar West
Chennai - 600 040 .... Respondent

PRAYER.: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certioarified mandamus to call for the records of the respondent dated 23.11.2007 made in CBSE:RO:M:CORR:2007:CNCHG: X:2006:142 rejecting the petitioner's request to change of his son's name V.S.Jeevan to that of Jeevan Shankar in the All India Secondary School Examination 2006 X Standard mark sheet issued by the respondent dated 27.05.2006, Roll No.4111758 and quash the same as illegal and without jurisdiction and direct the respondent herein to effect the change of name of the petitioner's son V.S.Jeevan as Jeevan Shankar in the All India Secondary School Examination 2006 X Standard Mark Sheet issued by the respondent dated 27.05.2006 Roll No.4111758 and issue the amended X Standard Mark Sheet.

For Petitioner : Mr. G.Palani
For Respondent : Mr. P.Wilson, Asst. Solicitor General, for
Mr. G.Nagarasan, C.G.S.C.,

O R D E R

This writ petition is filed challenging the order of the respondent dated 23.11.2007 by which the respondent has refused to alter the name of the petitioner's son in his Class X Certificates as 'Jeevan Shankar' instead of 'V.S.Jeevan'.

2. The case of the petitioner is that originally the name of his son was 'V.S.Jeevan' with which he was admitted under the respondent-institution. The petitioner wanted to change the name of his son as 'Jeevan Shankar' and he has also given a gazette notification in this

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regard. When he applied to the respondent to effect necessary change in the certificates maintained by the respondent based on the gazette notification, the respondent passed the impugned order stating that as per the Rules governing the Board mere production of gazette notification is not sufficient for the purpose of any alteration. In that view of the matter the impugned order came to be passed.

3. Learned counsel for the petitioner submitted that as per by-laws governing the respondent-Board by-law No.69.1(iv) contemplates the production of a gazette notification along with an order by a Court of law directing the change of name and other particulars to be filed for consideration by the Board for effecting such change. The said clause reads as follows:-

> "69. 1 Changes and corrections in Name
> (i) ...
> (ii) ...
> (iii) ...
> (iv) Applications regarding change in name / surname will be considered where such changes have been permitted by a Court of Law and notified in a Government Gazette. In the event of Court of Judicature allowing the change of name of a candidate, the same shall be carried out by the Board after obtaining relevant documents concerning change of name published in an official gazette."

4. These are the cases which require appreciation of evidence. This Court while exercising jurisdiction under Article 226 of the Constitution of India cannot be expected to declare the name of the petitioner's son as 'Jeevan Shankar' instead of 'V.S.Jeevan' which certainly requires an appreciation of evidence and which can be done only by the Civil Court. Therefore the by-law relating to the respondent Board which contemplates a permission from the Court of law means a competent Civil Court and cannot be construed as a High Court exercising jurisdiction under Article 226 of the Constitution of India.

5. At this juncture, the learned counsel for the petitioner would rely upon an earlier order of this Court dated 02.11.2006 passed in Writ Petition No.3798 of 2007, in which case, the learned Single Judge of this Court, by relying upon some by-law has allowed the writ petition with a direction to change the name of the petitioner's son therein as 'Srinivas Panchapakesen' instead of 'Srinivas Panchapakeshan'. That was the case of a spelling mistake which was sought to be corrected and that cannot be taken as a precedent for the purpose of invoking jurisdiction of this Court under Article 226 of the Constitution of India.

6. In view of the same the writ petition stands dismissed with liberty to the petitioner to approach the competent Court and get necessary orders as per the by-laws of the respondent. In the event of

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petitioner resorting to such remedy, the competent Court shall decide the case as expeditiously as possible in any event within a period of four months from the date of filing of such application. No costs. Consequently the connected MP is closed.

srk

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.The Joint Secretary,
Central Board of Secondary Education
No.1630-A J-Block, Anna Nagar West,
Chennai - 600 040

+ One cc to Mr. G. Palani, Advocate SR 70702

DM (co)

sg 04/12/07

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